REMARKS

The Final Office Action having a Notification Date of November 21, 2007 has been carefully considered. Applicants wish to thank the Examiner for the effort in evaluating this application. The following is noted:

Claims 2-14, 16 and 17 are pending in the present application prior to this response. Claims 13, 16 and 17 were withdrawn from consideration.

Claims 2-5, 8-10, 12-13, and 15-17 have been cancelled by the present amendment without prejudice, in order to move the remaining claims forward to a speedy allowance. After the present amendment, claims 6, 7, 11 and 14 remain in this application.

Claim Rejections – 35 USC §112

Claims 2-12 and 14 have been rejected under 35 USC §112, first paragraph, as not being reasonably enabled for treating the specific pain (for example pain associated with osteoarthritis or rheumatoid arthritis) for the compound of formula I. While not necessarily agreeing with the assertion of this lack of enablement, made by the Office, claims 6, 7, 11 and 14 have now been amended to limit their scope to compounds of formula Ia which are indoles. That is, they have been amended to limit them to compounds of formula Ia where E is CH. The specific pain then that is enabled for the claims as amended herewith is treatment of acute pain as disclosed and supported by pain model 1 in the examples. For claim 11 as now amended, the method is limited to compound 13 of the present specification, an indole. Withdrawal of this rejection is requested.

Claim Rejections – 35 USC §103

Claims 2-12 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ritzeler (US 6358978 B1).

In order to establish *a prima facie* case of obviousness, three criteria must be met. M.P.E.P. § 706.02(j). Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine,* 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, there must be a reasonable expectation of success. *In re Merck & Co., Inc.,* 231 U.S.P.Q. 375 (Fed. Cir. 1986). Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. *In re Royka,* 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In the Ritzeler reference, the IκB kinase inhibitors disclosed there have a nitrogen at what would be the "E" group of formula Ia of the present claims. That is, the Ritzeler reference does not disclose indoles as claimed in the present claims as amended. No motivation has been asserted as to why a skilled person would modify the compounds of the Ritzeler reference to arrive at the methods of treating pain with compounds of formula Ia which are indoles, as in the amended claims of the present application. Withdrawal of this rejection is respectfully requested.

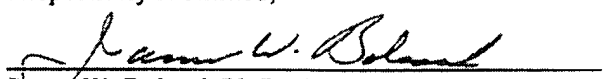
Conclusion

In view of the foregoing discussion, it is believed that all the pending claims, as amended, fully comply with the legal requirements for allowance. Reconsideration and allowance of the application with pending claims are earnestly solicited.

Enclosed herewith is a Petition under 37 C.F.R.§ 1.136(a) to extend the time for response for three months, or until May 21, 2008. It is believed that no additional fees and charges are required at this time in connection with the application; however, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No.18-1982.

If prosecution can be advanced by direct telephone contact with the undersigned, the Office is invited to call the practitioner directly at the number provided below, collect if necessary.

Respectfully submitted,



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